

## **REMARKS/ARGUMENTS**

Claims 1-23 and 25 are pending in the present application, claim 24 having been canceled as being non-elected in response to a restriction requirement. Claims 3, 8-10 and 21 are hereby canceled without prejudice to pursue that non-elected claim in further continuing application(s) filed during the pendency of the present application. Claims 1, 2, 4, 7, 14, 19 and 25 have been amended and claims 26-30 are newly-added in the foregoing amendments.

### **Election/Restriction**

On February 5, 2007, Applicant provisionally elected, by telephone, claims 1-23 and 25 (the Species I claims) for prosecution on the merits, reserving the right to traverse the restriction/election requirement. In the February 22, 2007 Office Action, claim 24 (the Species II claim; directed to an apparatus for exhausting fluid from a cutting device) was withdrawn from consideration as being nonelected. To expedite prosecution of the present application, applicant has canceled nonelected claim 24, without prejudice to pursue that non-elected claim in further continuing application(s) filed during the pendency of the present application.

New claims 26-29, which were added in the foregoing amendments, depend from Species I claims and, therefore, also fall within Species I. Applicant submits that new independent claim 30 falls within Species I.

### **Objections to Claims 4 and 7 for using “furthering”**

Claims 4 and 7 were objected to for using the term “furthering”. Claim 4 has been amended to use term “further” instead of “furthering”. Claim 7 has been amended to delete the term “furthering”.

### **Rejection of Claim 19 for indefiniteness**

Claim 19 was rejected under 35 U.S.C. § 112, paragraph two, for indefiniteness in view of the term “said tubes” lacking antecedent basis. Claim 19 has been amended

to recite “said rods” instead of said tubes. Applicant submits that claim 19, as amended herein, now complies with 35 U.S.C. 112, paragraph two.

### **Amended Claims and New Claims – Support in the Specification**

**Claim 1** has been amended to recite:

1. A cutting apparatus comprising:
  - (a) a stationary table defining a planar surface for supporting an article to be cut;
  - (b) a blade support structure projecting from said table, said support structure having a cutting arm extending therefrom, said cutting arm pivotable about said support structure and capable of being moved in an arcuate cutting motion between an initial position away from said table and a cutting position toward said table;
  - (c) a rotatable blade mounted on said cutting arm; and
  - (d) a dust collection fitting secured to the table such that the fitting is in line to receive cutting waste produced during a cutting operation.

Support for “**stationary** table” can be found in the specification at, for example, paragraph [0029], which states: “During operation of cutting apparatus 10, table 12 remains **stationary** and provides a supporting and positioning element for masonry, ceramic tile and other articles that are being cut or shaped.” (Emphasis added). Support for clause (d) can be found in the specification, for example, at paragraph [0030], which states: “A dust collection fitting 28 can be secured to table 12 such that fitting 28 is in line to receive cutting wastes produced during cutting operations with rotatable blade 16b.” Applicant submits, therefore, that claim 1, as amended herein, is fully supported in the specification.

**Claim 2** has been amended to include the limitations recited in canceled claim 3. Applicant submits, therefore, that claim 2, as amended herein, is supported in the specification.

**Claim 14** has been amended to recite:

14. The apparatus of claim 1, further comprising a cavity in said table for receiving a bottom portion of said blade, wherein said cavity allows said bottom portion to pass through said table.

Support for the amended claim can be found in the specification, for example, at paragraph [0029], which states: "Table 12 can have a long slender cavity 12a (shown in FIG. 1) that aligns with the downward motion of rotatable blade 16b to allow passage of the bottom portion of rotatable blade 16b through table 12." Applicant submits, therefore, that claim 14, as amended herein, is supported in the specification.

**Claim 25** has been amended to recite:

25. An apparatus for deflecting dust from a cutting element, said apparatus comprising a guard member capable of generally encasing an upper portion of a rotatable blade, said guard member shaped to deflect cutting waste to an exhaust fitting secured to a stationary table, said exhaust fitting having a funnel shape such that said fitting and said guard member overlap upon urging said rotatable blade into a cutting motion.

Support for "stationary table" can be found in the specification, for example, at paragraph [0029], which states: "During operation of cutting apparatus 10, table 12 remains stationary and provides a supporting and positioning element for masonry, ceramic tile and other articles that are being cut or shaped." (Emphasis added). Applicant submits, therefore, that claim 25, as amended herein, is supported in the specification.

**New Claims 26 and 29** recite:

26. The apparatus of claim 1, wherein the fitting is removably secured to the table.

29. The apparatus of claim 14, wherein said fitting is secured to said table behind said cavity along an axis where cutting occurs.

Support for the new claims can be found in the specification, for example, at paragraph [0038], which states: "Dust collection fitting 28 can be removably secured to table 12 immediately behind a narrow cavity 12a along the axis where cutting or shaping occur." (Emphases added.) Applicant submits, therefore, that new claims 26 and 29 are supported in the specification.

**New Claim 27** recites:

27. The apparatus of claim 4, wherein said guard member deflects cutting waste to said fitting, and wherein said fitting and said guard member overlap upon urging said rotatable blade into a cutting motion.

Support for the new claim can be found in the specification, for example, at paragraph [0034], which states: "In the cutting position, guard member 16c and dust collection fitting 28 can be positioned such that the two overlap resulting in the majority of cutting wastes being streamed into dust collection fitting 28." Applicant submits, therefore, that new claim 27 is supported in the specification.

**New Claim 28** recites:

28. The apparatus of claim 27, wherein said fitting is secured to said table behind said guard member.

Support for the new claim can be found in the specification, for example, at paragraph [0030], which states: "Dust collection fitting 28 can be secured to table 12 toward the back of cutting apparatus 10 immediately behind the long axis of rotatable blade 16b and guard member 16c." (Emphases added.) Applicant submits, therefore, that new claim 28 is supported in the specification.

**New Claim 30** recites limitations discussed above and limitations from originally filed claims. Applicant submits, therefore, that new claim 30 is supported in the specification.

### **Rejection of Claims under 35 U.S.C. § 102**

Claims 1-5, 9, 11-14 and 16-23 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Design Patent No. D451,109 (Governo). Claims 1-6, 8-13, 15, 20, 22 and 23 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,478,664 (Brazell). Claims 1, 2, 4-9, 13, 20 and 22 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 7,082,867 (Liao). Claim 25 was rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,988,435 (Kao).

As amended herein, independent claim 1 recites:

1. A cutting apparatus comprising:
  - (a) a stationary table defining a planar surface for supporting an article to be cut;
  - (b) a blade support structure projecting from said table, said support structure having a cutting arm extending therefrom, said cutting arm pivotable about said support structure and capable of being moved in an arcuate cutting motion between an initial position away from said table and a cutting position toward said table;
  - (c) a rotatable blade mounted on said cutting arm; and
  - (d) a dust collection fitting secured to the table such that the fitting is in line to receive cutting waste produced during a cutting operation.

Amended claim 1, therefore, requires a dust collection fitting secured to a **stationary** table. However, none of the cited references, whether taken alone or in combination, teach or suggest a dust collection fitting secured to a **stationary** table. Notably, the sawdust collection assembly 25 disclosed in Kao is mounted on a turning

disk (not numbered) on a turntable 20. (See, for example, Kao, Fig. 1; 2:46-57; 2:66-67.) A turning disk is not a stationary table. A turning disk is designed to move between various positions, whereas a stationary table is maintained in one position. Further, the saw disclosed in Kao is a compound miter saw that requires the saw head, and the sawdust collection assembly 25, to swivel in order to function properly. Kao, whether taken alone or in combination with any other cited reference(s), does not, therefore, teach or suggest a dust collection fitting secured to a **stationary** table. Applicant submits, therefore, that independent claim 1, as amended herein, and claims that depend therefrom are not anticipated or rendered obvious by the cited references, whether taken alone or in combination.

Applicant also submits that claim 15, which depends from independent claim 1, recites allowable subject matter for a separate reason. Claim 15 recites: "The apparatus of claim 1, further comprising a backstop **removably** secured to said table to stabilize said article during contact with said blade." (Emphasis added.) However, none of the cited references, whether taken alone or in combination, teach or suggest a backstop **removably** secured to a table. Notably, the fence 48 and clamp 50 disclosed in Brazell are capable of being pivoted and affixed in various positions on base 14 (in order to hold a workpiece at various angles), however, the fence 48 and clamp 50 are not indicated to be removable from the base 14. (See, for example, Brazell, Fig. 1; 3:5-9; claim 10.) Brazell does not, therefore, teach or suggest a backstop **removably** secured to a table. Applicant submits, therefore, that claim 15 contains subject matter that is not anticipated or rendered obvious by the cited references, whether taken alone or in combination.

As amended herein, independent claim 25 recites:

25. An apparatus for deflecting dust from a cutting element, said apparatus comprising a guard member capable of generally encasing an upper portion of a rotatable blade, said guard member shaped to deflect cutting waste to an exhaust fitting **secured to a stationary table**, said exhaust fitting having a funnel shape such that said fitting and said guard member overlap upon urging said rotatable blade into a cutting motion.

As discussed above in connection with claim 1, none of the cited references, whether taken alone or in combination, teach or suggest a dust collection fitting secured to a stationary table. Likewise, none of the cited references, alone or in combination, teach or suggest an exhaust fitting secured to a stationary table as required by amended independent claim 25. Applicant submits, therefore, that independent claim 25, as amended herein, is not anticipated or rendered obvious by the cited references, whether taken alone or in combination.

Like independent claim 1, new independent claim 30 recites a dust collection fitting secured to a stationary table. Like claim 15, new independent claim 30 recites a backstop removably secured to the table. New independent claim 30 also recites other limitations. For the reasons discussed above in connection with claims 1 and 15, as well as because none of the cited references, whether taken alone or in combination, teaches or suggests a cutting apparatus with all of the limitations recited in new independent claim 30, Applicant submits that claim 30 is not anticipated or rendered obvious by the cited references.

\* \* \* \* \*

In view of the foregoing amendments and remarks, applicants submit that claims 1-2, 4-7, 11-20, 22-23 and 25-30 are allowable. The Examiner is invited to contact the Applicant's undersigned attorney at [jrushman@mhmlaw.com](mailto:jrushman@mhmlaw.com) or at 312-775-8096, if any unresolved matters remain.

Please charge any fees, and credit any overpayment, incurred in connection with this submission to Deposit Account No. 13-0017.

Respectfully submitted,

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